

EXHIBIT E
(Complaint)

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

JOHN HALTER
vs.
MONTGOMERY COUNTY

NO. 2023-00841

NOTICE TO DEFEND – CIVIL

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERENCE SERVICE
MONTGOMERY BAR ASSOCIATION
100 West Airy Street (REAR)
NORRISTOWN, PA

19404-0268 (610) 279-9660, EXTENSION 201

PRIF0034
R 10/11

WEISBERG LAW
David A. Berlin, Esquire
PA Attorney Id. No. 314400
Matthew B. Weisberg, Attorney ID No. 85570
7 South Morton Ave.
Morton, PA 19070
610-690-0801
Fax: 610-690-0880

SCHAFKOPF LAW LLC
Gary Schafkopf, Attorney ID No. 83362
11 Bala Ave
Bala Cynwyd, PA 19004
610-664-5200 Ext 104
Fax: 888-283-1334

Attorneys for Plaintiff

JOHN HALTER
5 Berger Lane
Schwenksville, PA 19473

Plaintiff

v.

MONTGOMERY COUNTY d/b/a
MONTGOMERY COUNTY
CORRECTIONAL FACILITY
60 Eagleville Road
Eagleville, PA 19403

and

MARTHA D'ORAZIO
Individually and in her official capacity as
Assistant Warden, Programs, Administration
Montgomery County Correctional Facility
60 Eagleville Road
Eagleville, PA 19403

and

SEAN SMITH
Individually and in his official capacity as
Assistant Warden, Community Corrections
Montgomery County Correctional Facility
60 Eagleville Road
Eagleville, PA 19403

and

THOMAS BERGER
Individually and in his official capacity as
Assistant Warden, Security Operations
Montgomery County Correctional Facility

:
: MONTGOMERY COUNTY COURT OF
: COMMON PLEAS
:

: CIVIL COMPLAINT NO. 2023-00841
:

: JURY TRIAL OF TWELVE (12)
: JURORS DEMANDED
:

60 Eagleville Road
Eagleville, PA 19403

and

GARY CHESNEY

Individually and in his official capacity as
Director of Inmate Services
Montgomery County Correctional Facility
60 Eagleville Road
Eagleville, PA 19403

and

**CORRECTIONAL OFFICER (Male,
Caucasian)**

Individually and in his official capacity as
Correctional Officer
Montgomery County Correctional Facility
60 Eagleville Road
Eagleville, PA 19403

and

**CORRECTIONAL OFFICER (Male,
Caucasian)**

Individually and in his official capacity as
Correctional Officer
Montgomery County Correctional Facility
60 Eagleville Road
Eagleville, PA 19403

Defendants.

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Montgomery County Bar Association
100 W Airy St, Norristown, PA 19401
(610) 279-9660

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas ex-puestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

USTED LE DEBE TOMAR ESTE PAPEL A SU ABOGADO INMEDIATAMENTE. SI USTED NO TIENE A UN ABOGADO, VA A O TELEFONEA LA OFICINA EXPUSO ABAJO. ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMATION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NI NINGUN HONORARIO.

Montgomery County Bar Association
100 W Airy St, Norristown, PA 19401
(610) 279-9660

WEISBERG LAW
 David A. Berlin, Esquire
 PA Attorney Id. No. 314400
 Matthew B. Weisberg, Attorney ID No. 85570
 7 South Morton Ave.
 Morton, PA 19070
 610-690-0801
 Fax: 610-690-0880

SCHAFKOPF LAW LLC
 Gary Schafkopf, Attorney ID No. 83362
 11 Bala Ave
 Bala Cynwyd, PA 19004
 610-664-5200 Ext 104
 Fax: 888-283-1334

Attorneys for Plaintiff

JOHN HALTER
 5 Berger Lane
 Schwenksville, PA 19473

Plaintiff

v.

MONTGOMERY COUNTY d/b/a
MONTGOMERY COUNTY
CORRECTIONAL FACILITY
 60 Eagleville Road
 Eagleville, PA 19403

and

MARTHA D'ORAZIO
 Individually and in her official capacity as
 Assistant Warden, Programs, Administration
 Montgomery County Correctional Facility
 60 Eagleville Road
 Eagleville, PA 19403

and

SEAN SMITH
 Individually and in his official capacity as
 Assistant Warden, Community Corrections
 Montgomery County Correctional Facility
 60 Eagleville Road
 Eagleville, PA 19403

and

THOMAS BERGER
 Individually and in his official capacity as
 Assistant Warden, Security Operations
 Montgomery County Correctional Facility

:
 : MONTGOMERY COUNTY COURT OF
 : COMMON PLEAS

:
 : CIVIL COMPLAINT NO. 2023-00841

:
 : JURY TRIAL OF TWELVE (12)
 : JURORS DEMANDED

60 Eagleville Road
Eagleville, PA 19403

and

GARY CHESNEY

Individually and in his official capacity as
Director of Inmate Services
Montgomery County Correctional Facility
60 Eagleville Road
Eagleville, PA 19403

and

**CORRECTIONAL OFFICER (Male,
Caucasian)**

Individually and in his official capacity as
Correctional Officer
Montgomery County Correctional Facility
60 Eagleville Road
Eagleville, PA 19403

and

**CORRECTIONAL OFFICER (Male,
Caucasian)**

Individually and in his official capacity as
Correctional Officer
Montgomery County Correctional Facility
60 Eagleville Road
Eagleville, PA 19403

Defendants.

CIVIL ACTION COMPLAINT

1. Plaintiff, John Halter, is an adult male, currently residing at the above referenced address. At all times material, Plaintiff was incarcerated at Montgomery County Correctional Facility.
2. Defendant, Montgomery County Correctional Facility ("Montgomery"), is a prison that, at all times material herein, acted in its official capacity.
3. Defendant, Martha D'Orazio ("Orazio"), is an adult individual who, at all times material

herein, acted individually and in her official capacity as Assistant Warden, Programs, Administration at Montgomery.

4. Defendant, Sean Smith ("Smith"), is an adult individual who, at all times material herein, acted individually and in his official capacity as Assistant Warden, Community Corrections at Montgomery.
5. Defendant, Thomas Berger ("Berger"), is an adult individual who, at all times material herein, acted individually and in his official capacity as Assistant Warden, Security Operations at Montgomery.
6. Defendant, Gary Chesney ("Chesney"), is an adult individual who, at all times material herein, acted individually and in his official capacity as Director of Inmate Services at Montgomery.
7. Defendant, Correctional Officer 1 (Male, Caucasian) an adult individual who, at all times material herein, acted individually and in his official capacity as Correctional Officer at Montgomery.
8. Defendant, Correctional Officer 2 (Male, Caucasian) an adult individual who, at all times material herein, acted individually and in his official capacity as Correctional Officer at Montgomery.
9. Upon information and belief, jurisdiction is proper in this venue because Defendants are believed to have carried on regular, continuous, and substantial business in Montgomery County.

OPERATIVE FACTS

10. The above paragraphs are incorporated herein by reference.
11. On or about March 1, 2022, Plaintiff was arrested and brought to Montgomery.

12. During intake, Correctional Officers 1 and 2 told Plaintiff to take off all his clothes. Plaintiff complied and tossed his clothing in the clothing bin.
13. Defendants, Correctional Officers 1 and 2 assumed Plaintiff was throwing the clothes at them, and in retaliation threw a slipper at Plaintiff.
14. Correctional Officer 1 proceeded to grab Plaintiff and toss him against the wall where Plaintiff struck his head and caused it to split open. Plaintiff subsequently fell to the ground and both Correctional Officers began kicking Plaintiff in the ribs and punching him in the face.
15. Plaintiff attempted to put his hands behind his back, but the Correctional Officers would not let him. Correctional Officers 1 and 2 pepper sprayed Plaintiff even though he was complying with their orders.
16. After several minutes, additional officers came in and hog-tied Plaintiff. The officers dragged Plaintiff down the hallway without any clothes on. Officers constrained him to a wheelchair and put a spit mask on. Officers were laughing at Plaintiff and continually poked through the spit mask where his open wound was.
17. Plaintiff was then transported to medical where he was housed for approximately a week and a half without a shower. Plaintiff requested to have a shower to remove the pepper spray off his body, but his request was denied. Plaintiff was also denied fresh clothes and a toothbrush.
18. After approximately a week, Plaintiff was moved to a different section of the jail for a couple of weeks and was subsequently moved back to medical. Plaintiff finished his stay at Montgomery in solitary confinement for 30 (thirty) days.
19. Upon information and belief, all Defendants knew or should have known Plaintiff was being denied his right to shower, have a toothbrush, and have access to clean clothes.

20. Specifically, Defendants did not take the proper precautions to make sure that inmates were being treated properly. Upon information and belief, it was common for corrections officers to get violent during intake. Upon information and belief, Defendants, Martha D'Orazio (Assistant Warden, Programs, Administration), Sean Smith (Assistant Warden, Community Corrections), Thomas Berger (Assistant Warden, Security Operations), Gary Chesney (Director of Inmate Services) are the decision makers regarding the aforesaid custom, policy, and/or practice.
21. Plaintiff has suffered and continues to suffer severe physical and emotional distress as a result of Defendants' conduct.

COUNT I
VIOLATION-FAILURE TO PROTECT/FAILURE TO KEEP SAFE/FAILURE TO
PROVIDE MEDICAL CARE/ CRUEL AND UNUSUAL PUNISHMENT
VIOLATIONS OF 4th, 8th, and 14th AMENDMENTS
Plaintiff v. All Defendants

22. The above paragraphs are incorporated herein by reference.
23. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.
24. Defendants failed to protect and provide the appropriate medical care to Plaintiff.
25. Defendants failed to protect and provide the appropriate treatment for the head injury to Plaintiff.
26. Defendants showed deliberate indifference to Plaintiff's serious medical needs and wanton infliction of pain.
27. Defendants' actions stated above, inter alia, were violations of Plaintiff's clearly establish and well settled Constitutional and other legal rights.
28. Defendants caused Plaintiff to suffer cruel and unusual punishment in violation of the Fourth, Eighth and Fourteenth Amendments of the United States Constitution, actionable through 42

U.S.C. §1983, et seq.

WHEREFORE, Plaintiff demands judgment in their favor and against Defendant, individually, jointly and/or severally, in an amount in excess of fifty thousand dollars (\$50,000.00), including punitive damages, and further relief as this Honorable Court deems necessary and just, including attorney's fees and costs.

COUNT II
Negligence
Plaintiff v. All Defendants

29. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.

30. At all times material, Defendants breached their duty of care to Plaintiff, acting negligently, recklessly, and carelessly, and in the following regards, respectively:

- a. Failing to properly provide a safe environment for all inmates;
- b. Failing to protect the well-being of inmates;
- c. Failing to provide proper medical care;
- d. Other conduct that deviated from the applicable standard of care.

31. As a direct and proximate result of Defendants' negligence, carelessness and recklessness, Plaintiff suffered actual loss.

WHEREFORE, Plaintiff demands judgment in their favor and against Defendants, individually, jointly and/or severally, in an amount in excess of fifty thousand dollars (\$50,000.00), including punitive damages, and further relief as this Honorable Court deems necessary and just, including attorney's fees and costs.

COUNT III
Excessive Force/Assault/Battery
Plaintiff v. Correctional Officers 1 and 2

32. The above paragraphs are incorporated herein by reference.

33. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.

34. At the time of Defendants' conduct, Plaintiff had not committed any infraction otherwise to legally justify the force used by Defendants.

35. Defendants' actions stated above, inter alia, were committed under color of state law and were violations of Plaintiff's clearly established and well settled Constitutional and other legal rights.

36. Defendants placed Plaintiff in fear of physical harm and contact and then physically harmed and contacted Plaintiff without justification. Plaintiff suffered excessive force by their wrongful conduct all in violation of the Fourth, Eighth, and Fourteenth Amendments of the United States Constitution, actionable through 42 U.S.C. §1983, et seq., and at Common Law.

WHEREFORE, Plaintiff demands judgment in their favor and against Defendants, individually, jointly and/or severally, in an amount in excess of fifty thousand dollars (\$50,000.00), including punitive damages, and further relief as this Honorable Court deems necessary and just, including attorney's fees and costs.

COUNT IV
MONELL

37. The above paragraphs are hereby incorporated herein by reference.

38. Prior to the events described herein, Defendants developed and maintained policies, practices, procedures and customs exhibiting deliberate indifference to the

Constitutional rights of Plaintiffs, which caused violation of Plaintiffs constitutional and other rights.

39. Specifically, Defendants had a policy of not taking the proper precautions to keep inmates safe, from corrections officers.

40. Plaintiff suffered harm due to the Defendants' conduct.

WHEREFORE, Plaintiff demands judgment in their favor and against Defendants, individually, jointly and/or severally, in an amount in excess of fifty thousand dollars (\$50,000.00), including punitive damages, and further relief as this Honorable Court deems necessary and just, including attorney's fees and costs.

Respectfully Submitted,

WEISBERG LAW

/s/ David Berlin

David Berlin, Esquire

Matthew B. Weisberg, Esquire

SCHAFKOPF LAW

/s/ Gary Schafkopf

Gary Schafkopf, Esquire

Attorneys for Plaintiff

DATED: November 23, 2023

WESIBERG LAW
 David A. Berlin, Esquire
 PA Attorney Id. No. 314400
 Matthew B. Weisberg, Attorney ID No. 85570
 7 South Morton Ave.
 Morton, PA 19070
 610-690-0801
 Fax: 610-690-0880
 Attorney for Plaintiff

SCHAFKOPF LAW LLC
 Gary Schafkopf, Attorney ID No. 83362
 11 Bala Ave
 Bala Cynwyd, PA 19004
 610-664-5200 Ext 104
 Fax: 888-283-1334
 Attorney for Plaintiff

JOHN HALTER

v.


MONTGOMERY COUNTY d/b/a
 MONTGOMERY COUNTY
 CORRECTIONAL FACILITY

MONTGOMERY COUNTY
 COURT OF COMMON PLEAS

No. :

VERIFICATION

I, John Halter, hereby verify that the factual averments in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


 John Halter (Jan 13, 2023 07:53 EST)
 John Halter

January 12, 2023
 Date







Halter Verification

Final Audit Report

2023-01-13

Created:	2023-01-12
By:	stefan resnick (stefanresnick1@gmail.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAABhIi2YQcELs9McXHGIvSGqLpJDolJQV

"Halter Verification" History

-  Document created by stefan resnick (stefanresnick1@gmail.com)
 2023-01-12 - 12:56:20 PM GMT- IP address: 73.198.128.226
-  Document emailed to halterjph10@gmail.com for signature
 2023-01-12 - 12:56:36 PM GMT
-  Email viewed by halterjph10@gmail.com
 2023-01-12 - 12:56:38 PM GMT- IP address: 209.85.238.203
-  Signer halterjph10@gmail.com entered name at signing as John P Halter
 2023-01-13 - 12:53:20 PM GMT- IP address: 73.30.250.88
-  Document e-signed by John P Halter (halterjph10@gmail.com)
 Signature Date: 2023-01-13 - 12:53:22 PM GMT - Time Source: server- IP address: 73.30.250.88
-  Agreement completed.
 2023-01-13 - 12:53:22 PM GMT


Adobe Acrobat Sign

WEISBERG LAW
 David A. Berlin, Esquire
 PA Attorney Id. No. 314400
 Matthew B. Weisberg, Attorney ID No. 85570
 7 South Morton Ave.
 Morton, PA 19070
 610-690-0801
 Fax: 610-690-0880

SCHAFKOPF LAW LLC
 Gary Schafkopf, Attorney ID No. 83362
 11 Bala Ave
 Bala Cynwyd, PA 19004
 610-664-5200 Ext 104
 Fax: 888-283-1334

Attorneys for Plaintiff

JOHN HALTER

Plaintiff

v.

**MONTGOMERY COUNTY d/b/a
 MONTGOMERY COUNTY
 CORRECTIONAL FACILITY, et**

Defendants.

:
 : MONTGOMERY COUNTY COURT OF
 : COMMON PLEAS

:
 : CIVIL COMPLAINT NO. 2023-00841

:
 : JURY TRIAL OF TWELVE (12)
 : JURORS DEMANDED

CERTIFICATE OF SERVICE

I, David Berlin, Esquire, hereby certify that on this 23rd day of November 2023, a true and correct copy of the foregoing Complaint was served via e-filing and regular mail upon all parties of record.

MONTGOMERY COUNTY d/b/a MONTGOMERY COUNTY CORRECTIONAL FACILITY

60 Eagleville Road
 Eagleville, PA 19403

And

MARTHA D'ORAZIO

Individually and in her official capacity as Assistant Warden, Programs, Administration
 Montgomery County Correctional Facility
 60 Eagleville Road
 Eagleville, PA 19403

And

SEAN SMITH

Individually and in his official capacity as Assistant Warden, Community Corrections
 Montgomery County Correctional Facility

60 Eagleville Road
Eagleville, PA 19403

And

THOMAS BERGER

Individually and in his official capacity as Assistant Warden, Security Operations
Montgomery County Correctional Facility
60 Eagleville Road
Eagleville, PA 19403

And

GARY CHESNEY

Individually and in his official capacity as Director of Inmate Services
Montgomery County Correctional Facility
60 Eagleville Road
Eagleville, PA 19403

And

CORRECTIONAL OFFICER (Male, Caucasian)

Individually and in his official capacity as Correctional Officer
Montgomery County Correctional Facility
60 Eagleville Road
Eagleville, PA 19403

and

CORRECTIONAL OFFICER (Male, Caucasian)

Individually and in his official capacity as Correctional Officer
Montgomery County Correctional Facility
60 Eagleville Road
Eagleville, PA 19403

Respectfully Submitted,

WEISBERG LAW

/s/ David Berlin

David Berlin, Esquire
Matthew B. Weisberg, Esquire

SCHAFKOPF LAW LLC

/s/ Gary Schafkopf

Gary Schafkopf, Esquire

DATED: November 23, 2023